REMARKS

This is in response to the Office Action, dated January 20, 2004, where the Examiner has rejected claims 1-22. After the present response, claims 1-22 are pending in the present application. Reconsideration and allowance of pending claims 1-22 in view of the following remarks are respectfully requested.

A.   Rejection of Claims 1-3, 5, 7, 8, 10-18 and 21 under 35 U.S.C. § 102(e)

The Examiner has rejected claims 1-3, 5, 7, 8, 10-18 and 21 under 35 U.S.C. § 102(e), as being anticipated by Benyassine, et al. (USPN 6,636,829) ("Benyassine"). Applicant respectfully disagrees.

Applicant hereby swears behind the July 14, 2000 filing date of Benyassine, under 37 C.F.R. § 1.131. Under 37 C.F.R. § 1.131, the inventor of the claimed invention may submit an appropriate declaration to overcome a reference. The showing of facts shall be such as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to the effective date of the reference to a subsequent reduction to practice or to the filing of the application. See 37 C.F.R. § 1.131. Applicant respectfully submits that claims 1-3, 5, 7, 8, 10-18 and 21 are allowable over Benyassine based on the following remarks.

Pursuant to 37 C.F.R. § 1.131, attached is a declaration from inventor Jes Thyssen and a copy of the submission drafted by the inventor on behalf of his then employer, Conexant Systems, Inc., to the ITU-T, entitled "Detailed description of the 4 kbit/s eX-CELP Algorithm Submitted by Conexant Systems for the ITU-T Qualification Phase," dated January 5, 2000, which predates the filing date of Benyassine, i.e. July 14, 2000.

Applicant respectfully submits that the above submission to the ITU-T evidences that the inventors were in possession of the presently claimed subject matter on <u>January 5, 2000</u>, as further evidenced by attached declarations from each inventor.

As shown, Section 3.1.1.1 of the submission reads, as follows:

> After reading and buffering the speech samples for a given frame the segment is analyzed in order to detect if the frame is pure silence, i.e. only "silence noise" is present. The function adaptively tracks the minimum resolution and levels of the signal around zero. According to this information the function adaptively detects on a frame basis whether the current frame is silence and the component is purely "silence-noise". If it is detected as "silence noise" the function ramps the signal to the zero-level of the signal. Otherwise the signal is not modified. The zero-level of the signal depends on the (unknown) processing prior to the speech coding algorithm. For A-law this value is 8, while for μ-law and 16 bit linear PCM it is 0. The zero-level of the signal is tracked adaptively by the function. It should be noted that the function in general only modifies the signal if the sample values for the given frame are within two quantization levels of the zero-level.
>
> The function cleans up the silence parts of clean speech for very low level noise, and hereby enhances the perceptual quality of clean speech. The effect of the function becomes especially noticeable when the input originates from an A-law source, i.e. the input has passed through A-law encoding and decoding immediate prior to the speech coding algorithm. This is due to the amplification of sample values around zero (e.g. -1, 0, $+1$) to either -8 and $+8$ inherent in A-law. The amplification has the potential of transforming an inaudible "silence noise" into a clearly audible noise.

It is further respectfully submitted that the inventor of the present application is also a named inventor of the U.S. provisional patent application serial no. 60/155,321, from which Benyassine claims priority.

Accordingly, applicant respectfully requests that the rejection of claims 1-3, 5, 7, 8, 10-18 and 21 under 35 U.S.C. § 102(e) be withdrawn.

B.   <u>Rejection of Claims 4, 6, 9, 19-20 and 22 under 35 U.S.C. § 103(a)</u>

The Examiner has rejected claim 4 under 35 U.S.C. § 103(a), as being unpatentable over Benyassine in view of Wei (USPN 6,606,255). Further, the Examiner has rejected claim 6 under 35 U.S.C. § 103(a), as being unpatentable over Benyassine in view of Hoagland (USPN 6,564,060). Also, the Examiner has rejected claims 9, 19-20 and 22 under 35 U.S.C. § 103(a), as being unpatentable over Benyassine in view of Szczebak et al. (USPN 5,652,712). Applicant respectfully disagrees.
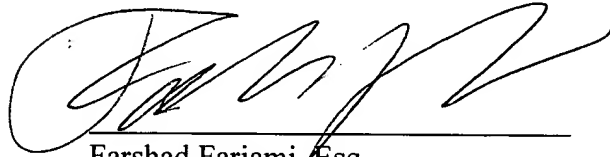
Applicant respectfully submits that claims 4, 6, 9, 19-20 and 22 should be allowed at least for the same reasons stated above. Further, rejection of claims 4, 6, 9, 19-20 and 22 is improper under 35 U.S.C. 103(c), because the subject matter of Benyassine and the claimed invention of claims 4, 6, 9, 19-20 and 22 were both, at the time the invention was made, subject to an obligation of assignment to Conexant Systems, Inc.

Accordingly, applicant respectfully requests that the rejection of claims 4, 6, 9, 19-20 and 22 under 35 U.S.C. § 103(a) be withdrawn.

C.   **Conclusion**

For all the foregoing reasons, an early allowance of claims 1-22 pending in the present

application is respectfully requested. The Examiner is invited to contact the undersigned for any

questions.

Respectfully Submitted;
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